

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**GEORGE CARY, individually and as the
personal representative of the Estate of
LILIAN CARY,**

Plaintiffs,

v.

**NEW ENGLAND COMPOUNDING
PHARMACY, INC. d/b/a NEW ENGLAND
COMPOUNDING CENTER, *et al.*,**

Defendants.

**CIVIL ACTION
No. 13-cv-10228-FDS**

**ROBERT SCHRODER and MARGARET
SCHRODER,**

Plaintiffs,

v.

**NEW ENGLAND COMPOUNDING
PHARMACY, INC. d/b/a NEW ENGLAND
COMPOUNDING CENTER, *et al.*,**

Defendants.

**CIVIL ACTION
No. 13-cv-10227-FDS**

**LEONARD SHAFFER and KAREN
SHAFFER,**

Plaintiffs,

v.

**BARRY J. CADDEN, GREGORY
CONIGLIARO, LISA C. CADDEN,
GLENN A. CHIN, ARL BIO PHARMA,
INC. D/B/A ANALYTICAL RESEARCH
LABORATORIES, AMERIDOSE, LLC,
MEDICAL SALES MANAGEMENT, INC.
AND GDC PROPERTIES
MANAGEMENT, LLC,**

Defendants.

**CIVIL ACTION
No. 13-cv-10226-FDS**

EDWARD ADAMS,

Plaintiff,

v.

BARRY J. CADDEN, *et al.*,

Defendants.

**CIVIL ACTION
No. 13-cv-10229-FDS**

**AMERIDOSE, LLC’S MOTION FOR LEAVE TO FILE A REPLY BRIEF TO
PLAINTIFFS’ CONSOLIDATED MEMORANDUM IN OPPOSITION TO
AMERIDOSE’S MOTIONS FOR WITHDRAWAL OF THE REFERENCE**

Pursuant to Local Rule 7.1(b)(3) of the United States District Court for the District of Massachusetts, Ameridose, LLC (“Ameridose”), by and through its undersigned counsel, respectfully requests this Honorable Court grant it leave of court to file a Reply Brief, limited to ten pages, responding to the Plaintiffs’ Consolidated Memorandum in Opposition to Ameridose’s

Motion for Withdrawal of Reference by the United States District Court. In support of its Motion for Leave, Ameridose respectfully states the following:

1. Each of the Plaintiffs is the plaintiff in a civil action originally filed in the Massachusetts Superior Court for Middlesex County (“State Court”), and respectively styled George Cary v. New England Compounding Pharmacy, Inc., et al., C.A. No. 12-4299, Robert Schroder, et al. v. New England Compounding Pharmacy, Inc., et al., C.A. No. 12-4105, Edward Adams v. Barry J. Cadden, et al., C.A. No. 12-5030, and Leonard Shaffer, et al. v. Barry J. Cadden, et al., C.A. No. 12-5031 (collectively, the “State Court Actions”).

Ameridose is a named defendant in each of the State Court Actions.

2. Each of the State Court Actions was removed to the United States Bankruptcy Court for the District of Massachusetts by a common co-defendant, ARL Bio Pharma, Inc., d/b/a Analytical Research Laboratories (“ARL”), on January 18, 2013.

3. On February 5, 2012, Ameridose filed its underlying Motions for Withdrawal of the Reference by United States District Court in each of the Adversary Proceedings.

4. Ameridose’s Motions for Withdrawal of the Reference were transferred to this Court the same day.

5. On February 18, 2013, the Plaintiffs filed a Consolidated Memorandum in Opposition to Ameridose’s Motion for Withdrawal of Reference by the United States District Court.

6. Ameridose now requests leave of court to be permitted to file a Reply Brief to respond to several of the arguments raised by the Plaintiffs in their Consolidated Memorandum in Opposition.

7. Specifically, the proposed Reply Brief will be limited to addressing the Plaintiffs' argument that:

- a. "Withdrawal 'is the exception to the general rule that bankruptcy proceedings should be adjudicated in the bankruptcy court'"¹ by demonstrating that overwhelming case precedent establishes abstention should not be followed in personal injury and wrongful death actions;
- b. Ameridose's Motions for Withdrawal somehow frustrate the expeditious handling of these lawsuits by demonstrating that, in light of New England Compounding Pharmacy, Inc.'s ("NECC") Chapter 11 bankruptcy filing, it is the most efficient course for this Court to hear all cases where injury from contaminated steroids sold by NECC is alleged; and
- c. The Adams and Schaffer cases are not sufficiently "related to" the Bankruptcy Proceeding to confer jurisdiction with this Court because NECC is not a named defendant² by demonstrating that "related to" proceedings are those that potentially have some effect on the bankruptcy estate and regardless of the debtor's participation or not.

8. The Reply Brief will be limited to responding to the Plaintiffs' arguments and will not raise any new arguments. .

¹ Plaintiffs' Consolidated Memorandum in Opposition at Page 8.

² Plaintiffs' Consolidated Memorandum in Opposition at Page 12.

For all of the reasons set forth above, Ameridose, LLC respectfully requests that it be granted leave to file a Reply Brief, limited to ten pages, responding to the Plaintiffs' Consolidated Memorandum in Opposition to Ameridose's Motion for Withdrawal of Reference.

LOCAL RULE 7.1 CERTIFICATION

Pursuant to Local Rule 7.1(2), Ameridose certifies that it conferred with counsel for the Plaintiffs in an attempt to resolve or narrow the issues raised in this motion but were unable to come to an agreement.

Dated: March 4, 2013

The Defendant,
Ameridose, LLC,
By its Attorneys

/s/ Matthew E. Mantalos

Scott J. Tucker (BBO # 503940)
Matthew E. Mantalos (BBO # 669404)
Tucker, Saltzman & Dyer, LLP
100 Franklin Street
Boston, MA 02110
Tel: 617.986.4222
Fax: 617.986-6229
E-mail: tucker@tsd-lawfirm.com
mantalos@tsd-lawfirm.com

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been filed with the Clerk of the Court on March 4, 2013 using the ECF system that sent notification of this filing to all ECF-registered counsel of record via e-mail generated by the Court's ECF system.

/s/ Matthew E. Mantalos

Attorney for Defendant Ameridose, LLC